

10/9/12

2012-082  
Dr. W. C. Helton  
District No. 5  
Planning Version

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED IN THE 4200 BLOCK OF CHERRYTON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, be and the same hereby is amended so as to rezone property located in the 4200 block of Cherryton Drive, more particularly described herein:

Two unplatted tracts of land located in the 4200 block of Cherryton Drive being the properties described as Tracts 1 and 2 in Deed Book 5167, Page 666, ROHC. Tax Map Nos. 157G-J-012 and 013.

and as shown on the maps and drawings attached hereto and made a part hereof by reference, from R-1 Residential Zone to R-4 Office Zone.

SECTION 2. BE IT FURTHER ORDAINED, That this rezoning shall be subject to the following:

1. No access to Shawnee Trail;
2. No boarding houses, lodging houses, dormitories or halfway houses;
3. Truck delivery permitted only between 8:00 a.m. to 8:00 p.m.;

4. If the building is demolished, the square footage of the new building cannot exceed one hundred twenty-five (125%) percent of existing building's footprint;
5. Dumpster activity restricted between the hours of 8:00 a.m. and 8:00 p.m.; and
6. Lighting to be directed down and away from residential areas.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two

(2) weeks from and after its passage.

PASSED on Second and Final Reading

\_\_\_\_\_, 2012.

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_, 2012.

/mms

\_\_\_\_\_  
MAYOR

10/9/12

2012-082  
Dr. W. C. Helton  
District No. 5  
Applicant Version

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED IN THE 4200 BLOCK OF CHERRYTON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, be and the same hereby is amended so as to rezone property located in the 4200 block of Cherryton Drive, more particularly described herein:

Two unplatted tracts of land located in the 4200 block of Cherryton Drive being the properties described as Tracts 1 and 2 in Deed Book 5167, Page 666, ROHC. Tax Map Nos. 157G-J-012 and 013.

and as shown on the maps and drawings attached hereto and made a part hereof by reference, from R-1 Residential Zone to C-2 Convenience Commercial Zone.

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

PASSED on Second and Final Reading

\_\_\_\_\_, 2012.

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_, 2012.

/mms

\_\_\_\_\_  
MAYOR

2012-082 City of Chattanooga  
July 9, 2012(Deferred 60 days)  
September 10, 2012(Action taken)

RESOLUTION

WHEREAS, Dr. W. C. Helton petitioned the Chattanooga-Hamilton County Regional Planning Commission to recommend to the Members of the City Council of the City of Chattanooga the rezoning from R-1 Residential Zone to C-2 Convenience Commercial Zone properties located in the 4200 block of Cherryton Drive.

Two unplatted tracts of land located in the 4200 block of Cherryton Drive being the properties described as Tracts 1 and 2 in Deed Book 5167, Page 666, ROHC. Tax Map 157G-J-012 and 013 as shown on the attached map.

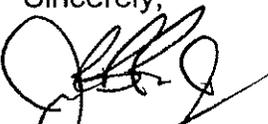
AND WHEREAS, the Planning Commission held a public hearing on this petition on July 9, 2012, at which time action was deferred to the meeting of September 10, 2012,

AND WHEREAS, the Planning Commission heard and considered all statements favoring the petition,

AND WHEREAS, the Planning Commission has studied the petition in relation to existing zoning and land use and potential patterns of development.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission, on September 10, 2012, recommended to the Members of the City Council of the City of Chattanooga that this petition be denied for the C-2 Convenience Commercial request and approved an R-4 Office Zone, subject to: 1) No access to Shawnee Trail; 2) No boarding houses, lodging houses, dormitories or halfway houses; 3) Truck delivery permitted only between 8:00 a.m. to 8:00 p.m.; 4) If the building is demolished, the square footage of the new building cannot exceed 125 percent of existing building's footprint; 5) Dumpster activity restricted between the hours of 8:00 a.m. and 8:00 p.m.; and 6) Lighting to be directed down and away from residential areas.

Sincerely,



John Bridger  
Secretary

**Case Number: 2012-082**

**Applicant Request: C-2 Convenience Commercial Zone**

Applicant: Dr. W.C. Helton  
 Property Address: 4201 Cherryton Drive  
 Jurisdiction: Chattanooga District 5/Hamilton County District 8  
 Neighborhood: 21<sup>st</sup> Century, Brainerd Unity, Menlo Park, NBCA, NBNA

**Proposed Development**

Site Plan Submitted: Yes  
 Proposed Use: Business Incubator

**Planning Commission Recommendation:  
 Approve with change (see resolution)**

**Site Characteristics**

Current Zoning: R-1 Residential Zone  
 Current Use: Vacant School  
 Adjacent Uses: Residential  
 Size of Tract: 8.38 Acres

**STAFF RECOMMENDATION: DENY C-2 Convenience Commercial Zone. APPROVE R-4 Special Zone, subject to the following conditions:**

1. No access to Shawnee Trail.
2. No boarding houses, lodging houses, or dormitories.
3. Truck delivery permitted only between 8:00 a.m. to 8:00 p.m.
4. If the building is demolished, the square footage of the new building cannot exceed 125 percent of existing building's footprint.

**Analysis**

Extension of Existing Zoning? No  
 Community Land Use Plan: No plan for this area  
 Proposed Use Supported by Community Land Use Plan? Not applicable  
 Proposed Use Supported by Comprehensive Plan? No

**Comments**

Planning Staff: Applicant Request Overview

The applicant purchased the former 21<sup>st</sup> Century Academy School property from the Hamilton County Department of Education. The applicant is requesting that the property be rezoned from R-1 Residential to C-2 Convenience Commercial Zone.

The applicant met with the Brainerd Neighborhood Association groups to discuss the proposed reuse of the property prior to the July Planning Commission meeting, but has not held a follow-up meeting as RPA staff is aware. RPA staff was in attendance at the first meeting and questions focused on the types of uses that may occur on the property, and why the need for a C-2 Convenience Commercial Zone. Those in attendance at the meeting agreed that the school property needed to be re-used; however, some in attendance had reservations about a C-2 Convenience Commercial Zone for such a large building while others felt that it was an appropriate location for a C-2 Convenience Commercial Zone if use restrictions were placed on the property as part

of the rezoning.

At the request of the Brainerd Neighborhood Association groups the applicant did attend a follow-up meeting to discuss possible conditions and restrictions for a C-2 Convenience Commercial Zone. The applicant offered the following restrictions as part of the application:

1. Truck delivery restricted to between 8:00 a.m. to 8:00 p.m.
2. If the building is demolished, the square footage of the new building cannot exceed 125 percent of existing building's footprint.
3. No vehicle repair facilities, car washes, or car dealerships.
4. No commercial signs or billboards.
5. No cash advanced businesses, including pawn shops.
6. No gun/firearms/ammunition/weapony shops.
7. No fireworks sales.
8. No billiard parlors.
9. No penny arcades.

***A revised site plan was submitted to the RPA on August 20, 2012*** showing building locations, existing and proposed parking spaces. A written proposal accompanied the site plan with the following items:

- The property is listed on the National Historic Register and every effort will be made to maintain that distinction. No exterior reconstruction is planned.
- The infrastructure (water, power, etc.) will be restored to pre 2005 condition.
- Windows, floors, walls, ceilings, lights, toilets and showers will be repaired.
- The site (buildings and grounds) will continue to be used for school purposes, including classrooms, related office and school functions.
- The program of activities will be of an after-school nature such as gymnastics, art, music, etc.
- The schedule will be developed to include afternoons, Saturdays and summer months.
- Space will be made available to the school system and local government needs.
- Existing parking spaces should be adequate for the next few years, however new parking spaces will be developed as needed or required. (shown on site plan)
- Facilities for community meetings, etc. will also be made available as much as possible.

#### Site Description

This is the site of the former 21<sup>st</sup> Century Academy School in Brainerd. The property has a total acreage of approximately 8.35 acres including a building footprint of approximately 74,000 square feet. The property is

located in a primarily single-family detached residential neighborhood with two churches and an observatory adjacent to the property, surrounded by R-1 Residential zoning. The property contains the main school building, as well as a couple of smaller buildings located to the rear of the main school building. There are also 40 existing parking spaces directly adjacent to the buildings with an additional 90 spaces located along Tuxedo Avenue.

#### Zoning History

This request came before the Planning Commission on July 9, 2012. The Planning Commission suggested that the applicant consider the R-4 Special Zone and deferred action until the September 10<sup>th</sup> meeting. The applicant, Mr. Helton, submitted a new site plan and a list of proposed uses on August 20, 2012 that are consistent with the permitted uses of the R-4 Special Use Zone.

#### Staff Recommendation

Deny the C-2 Convenience Commercial request. Approve the R-4 Special Zone, subject to certain conditions. The R-4 Special Zone is more appropriate for this location. It will allow the proposed use of a business incubator while prohibiting any additional incompatible commercial uses that the C-2 zone would permit. Like many zoning categories, the R-4 Special Zone also permits many additional uses (*hospitals, funeral homes, day care centers, small animal hospitals, halfway houses, gift shops, barber and beauty shops, assisted living facilities*) but only with additional requests, public hearings, and approval by either the Board of Appeals or City Council.

The request for C-2 Convenience Commercial Zone at this location is not an extension of an adjacent C-2 Convenience Commercial Zone. The property is surrounded by R-1 Residential. C-2 Convenience Commercial Zone is located along Brainerd Road.

Introducing a commercial zone, such as the C-2 Convenience Commercial Zone typically permitting large scale, high intensity uses without frontage on a major highway or street corridor into a residential neighborhood on approximately 8.35 acres of property would negatively impact the adjacent residential neighborhood.

The intent of the C-2 Convenience Commercial Zone is to promote the clustering and development of businesses, offices, and service related facilities to serve the demand for goods and services generated by both residents and travelers. Section 38-182 of the Chattanooga Zoning Ordinance states that the C-2 Convenience Commercial Zone shall be located so as to primarily serve traffic on arterial or collector streets and situated on the site so as to offer convenient ingress and egress. The property does not front Brainerd Road, the major highway corridor. Main access to the property is from N. Tuxedo Avenue with secondary

access provided by Manor Road, both of which are considered to be local streets. Access to the property is not in compliance with Section 38-182 of the Chattanooga Zoning Ordinance as stated above.

Initially, without specifying the type or scale of uses, the applicant indicated that the proposed use of the property is a business incubator. The C-2 Convenience Commercial Zone would accommodate the proposed use. However, C2 also permits a wide range of uses that could negatively impact the residential neighborhood. The applicant, working with the neighborhood has submitted land use restrictions; however, the C-2 Convenience Commercial Zone contains language that permits retail sales. Retail sales is a very broad use that could potentially include a wide range of land uses that, if not specifically adopted as a restriction or as condition on the rezoning, could permit unwanted uses that could have a negative impact on the residential neighborhood.

RPA staff reviewed permitted uses in the C-2 Convenience Commercial Zone and considered excluding those land uses that could have a negative impact on the adjacent residential neighborhood. After removing the unwanted or negative land uses, including the suggested land use restrictions proposed by the applicant, the remaining land uses for most part are very similar to permitted uses within the C-5 Neighborhood Zone.

The C-5 Neighborhood Commercial Zone is a small scale, low intensity zone permitting uses that do not have a negative impact on adjacent residential. The intent statement of the C-5 Neighborhood Commercial Zone is to promote, protect, and sustain the vitality of the neighborhood by allowing small commercial and service establishments that are compatible with and complement the adjacent residential properties. However, permitted uses in the C-5 Neighborhood Commercial Zone are limited to a maximum of 5,000 square feet of total floor area. This 8.3 acre piece of property with a building square footage of approximately 74,000 square feet would not be in keeping with the intent of the C-5 Neighborhood Convenience Zone to provide small scale, low intensity uses that complement the neighborhood.

Another concern with introducing a high intensity or scale of uses such as a C-2 Convenience Commercial Zone at this location is the *lack of* available on-site parking. Any reuse of this property will be required to comply with the parking requirements of the Chattanooga Zoning Ordinance unless a variance is received. The site plan submitted August 20, 2012 indicates a total of 40 on-site parking spaces with 90 additional parking spaces located on Tuxedo Avenue. It is unclear how many of the 90 spaces on Tuxedo Avenue can be used for this site and be credited toward the off-site parking space requirements. This new site plan also shows an additional 34 parking spaces to the rear of the school building. ***Depending on the square footage of uses, the precise number of***

***required parking spaces will be determined and approved by the City Traffic Engineer's Office.***

The applicant, regardless of the zoning designation concerning the re-use of the property, is encouraged to continue discussions and meetings with the City of Chattanooga Traffic Engineer's Office to determine the number of required on-site parking spaces for a 74,000 square foot building with the potential for multiple uses, and any required information for a shared parking agreement.

RPA staff supports reuse of the property and the existing R-1 Residential Zone does not provide additional redevelopment options or opportunities for the re-use of this property. Determining what types of land uses would be appropriate for the re-use of a 74,000 square foot former school building, with little or no on-site parking located within primarily a single-family residential neighborhood, with little or no parking provided is a challenge. Any reuse of this property should complement and be compatible with the adjacent single-family residential neighborhood.

After review of the zoning ordinance and the site, and with limited information provided by the applicant regarding the use, the ***uses included in the R-4 Special Zone would be appropriate and compatible at this location.*** Appropriate uses include residential dwellings (for example: condos or apartments), professional offices, studios, professional and fraternal hobby clubs, laboratories and research centers, gift shops, beauty and barbers shops. The site plan submitted August 20, 2012 shows how the property may be reused as well as existing and proposed on-site parking and overall how the property will function as a use other than a former school.

**Notes:**

The Chattanooga Landscape Ordinance will require landscape buffers where this site abuts residential property. The landscape ordinance will also require trees to be planted in any new parking areas.

# *Church Supernatural*

*Dr. Sean Teal, Bishop*

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July 9, 2012

Dear Sirs,

Please accept this letter as an official confirmation from the Ruling Elders of Friendship Central Community Church that the Helton Group, LLC has requested and received permission to share the parking on North Tuxedo Avenue. This agreement acknowledges the R-4 zoning status and anticipates small businesses operating from the former 21st Century School.

We welcome the visionary leadership of Mr. "Bud" Helton to the Brainerd area and pray for the success of this venture and its positive impact to our community and city.

Sincerely,

Dr. Sean Teal, Bishop  
BT/sl

*Friendship Central Community Church  
7 North Tuxedo Avenue ♦ Chattanooga, TN 37411  
Office: (423) 698-3471 ♦ Fax: (423) 698-3473  
[www.prayereverywhere.org](http://www.prayereverywhere.org)  
Email: [secretary@churchsupernatural.com](mailto:secretary@churchsupernatural.com)*

# 21<sup>st</sup> CENTURY SCHOOL PROGRAM PROPOSAL

W. C. Helton has purchased the 21<sup>ST</sup> Century School property from the Hamilton County Department of Education.

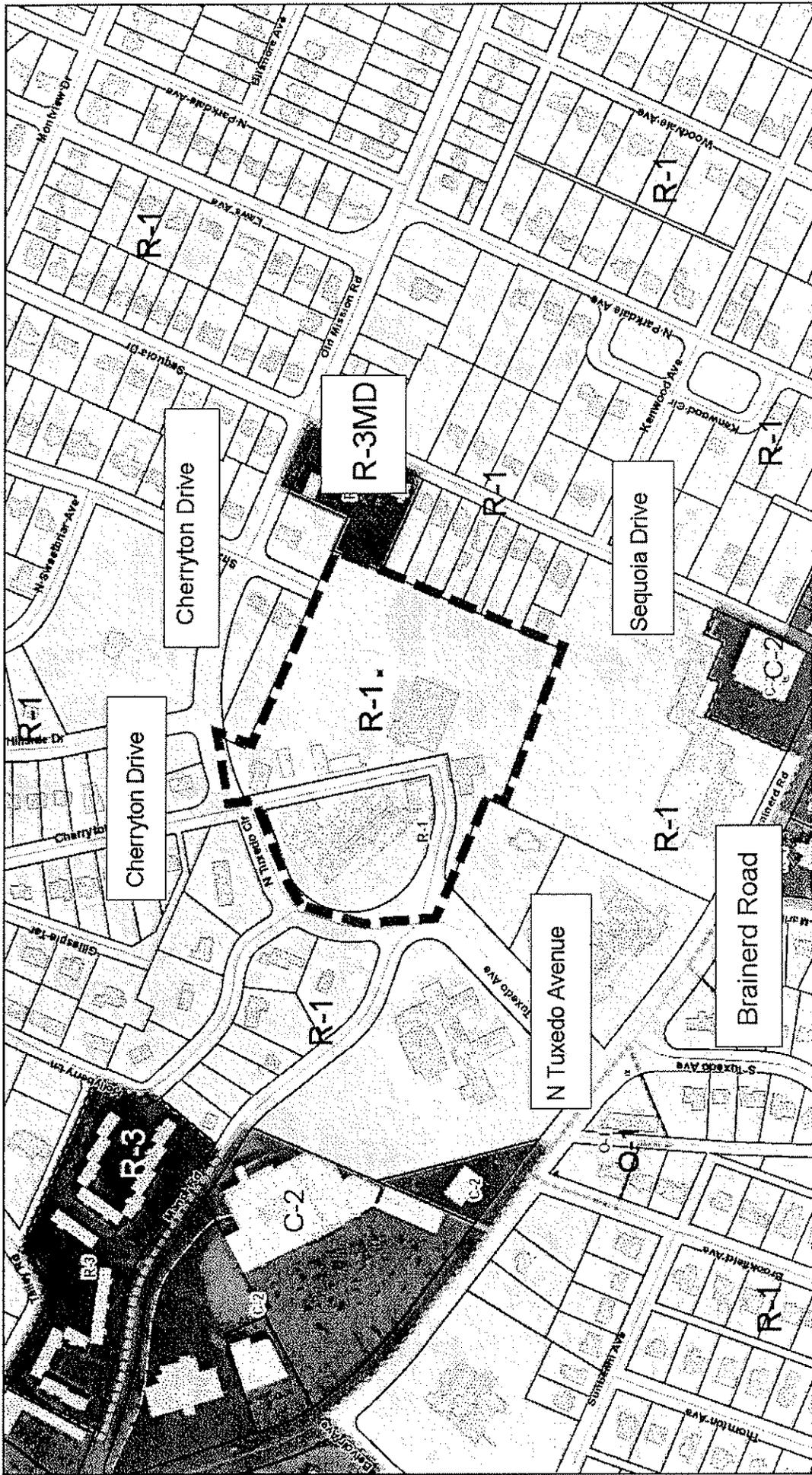
The following is a plan for future work:

- The property is listed on the National Historical Register and every effort will be made to maintain that distinction. No exterior reconstruction is planned.
- The infrastructure (water, power, etc.) will be restored to pre 2005 condition.
- Windows, floors, walls, ceilings, lights, toilets and showers will be repaired.

The following is a plan for future usage:

- The site (buildings and grounds) will continue to be used for school purposes, including classrooms, related office and school functions.
- The program of activities will be of an after-school nature such as gymnastics, art, music, etc.
- The schedule will be developed to include afternoons, Saturdays and summer months.
- Space will be made available to the school system and local governmental needs.
- Existing parking spaces should be adequate for the next few years, however new parking spaces will be developed as needed or required. (shown on site plan)
- Facilities for community meetings, etc. will also be made available as much as possible.

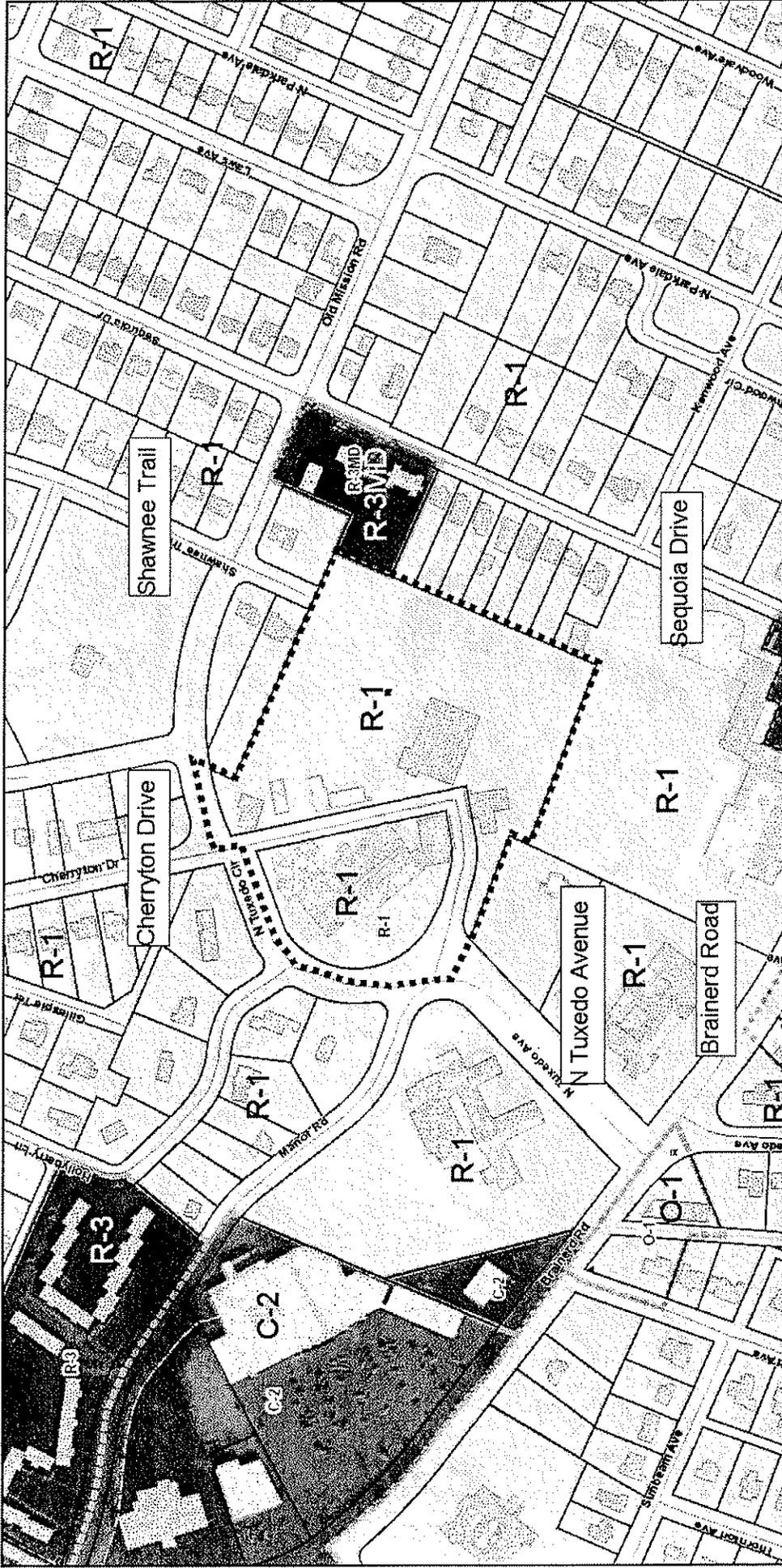
This information is being provided as part of our effort to obtain R-4 Zoning and the closing of certain sections of Cherryton Drive.



2012-0082 R-1 to C-2



325 ft



**PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2012-082: Deny C-2; Approve R-4, subject to conditions listed in the Planning Commission Resolution**

2012-0082 R-1 to C-2



300 ft

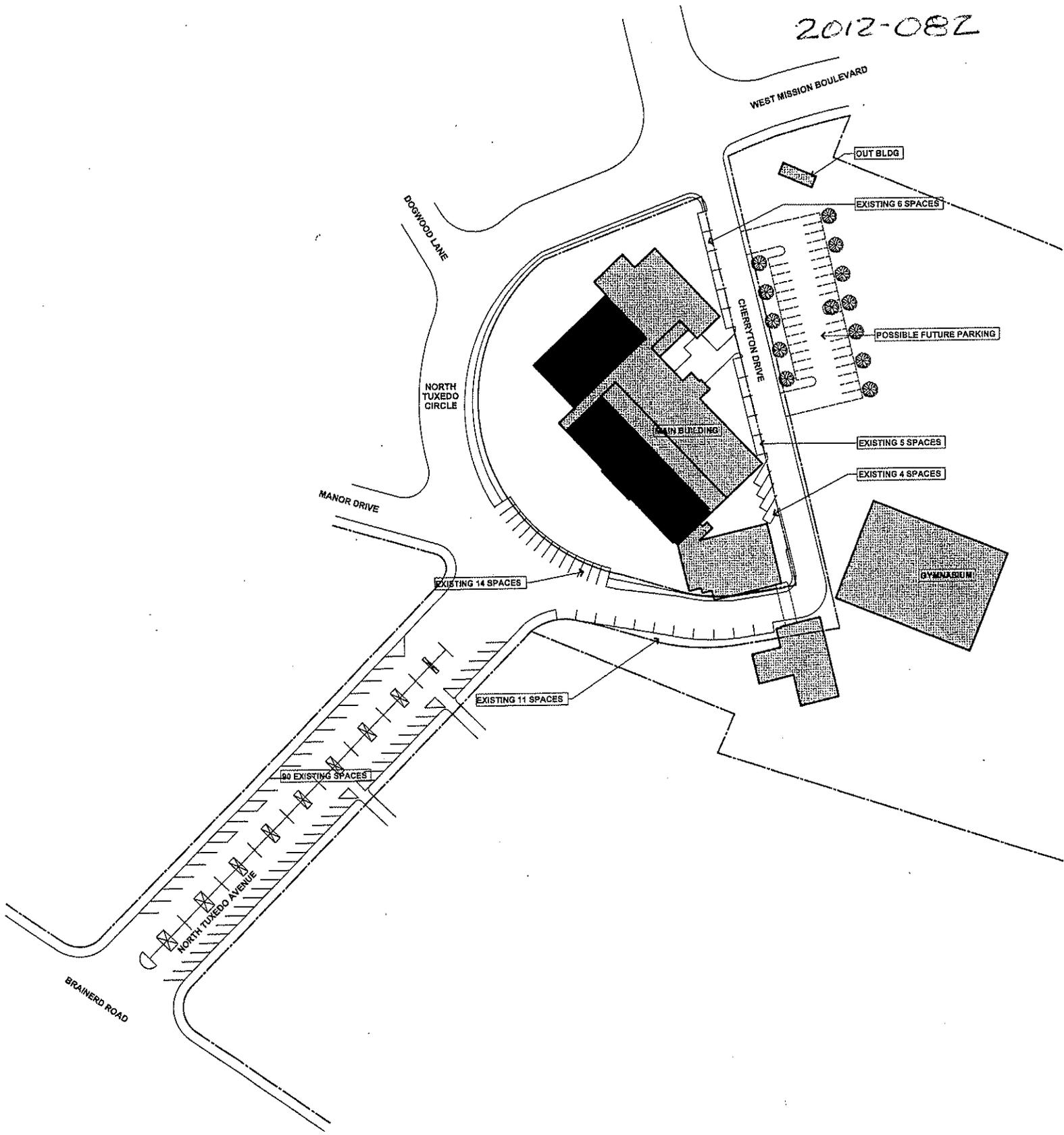


Chattanooga Hamilton County Regional Planning Agency





2012-082



**RAMMATIC AREA and SITE PLAN FOR THE 21st CENTURY SCHOOL PROPERTY**  
ADJOINING PROPERTIES ARE ZONED R-1

= 60'-0"

## NOTICE

WHEREAS, petitions to amend Ordinance No. 6958, known as the Zoning Ordinance, have been proposed to the City Council of the City of Chattanooga:

1. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following petition to rezone be approved:

2012-119 Alan Haniszewski/RTB Holdings. 1944 Rossville Avenue and 1910 Jefferson Street, from M-1 Manufacturing Zone to C-3 Central Business Zone, subject to certain conditions.

2. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following petition to rezone be approved and denied in part:

2012-082 Dr. W. C. Helton. 4200 block of Cherryton Drive, from R-1 Residential Zone to C-2 Convenience Commercial Zone, subject to certain conditions.

3. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following Special Exceptions Permit be approved:

2012-118 AD Engineering/Tiffany Farley. 7435 and 7437 Pinewood Drive, as a Preliminary and Final Residential Planned Unit Development, subject to certain conditions.

4. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following Special Exceptions Permit be denied:

2012-110 Muhamed Mahalbasic. 862 Wheeler Avenue, to allow a duplex in an R-1 Residential Zone.

The City Council of the City of Chattanooga, Tennessee will hold a public hearing in the Council Assembly Room, City Council Building, 1000 Lindsay Street, Room 101, Tuesday,

**October 9, 2012**

at 6:00 p.m. for the purpose of hearing any person whose property may be affected by, or who may otherwise be interested in, said amendments.

This the \_\_\_\_ day of \_\_\_\_\_, 2012.

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Carol K. O'Neal, CMC  
Clerk to the City Council